

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11
IO-13 ACDA-12 TRSE-00 /091 W
-----121864 131432Z /14

R 131331Z APR 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC 7621
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION USBERLIN
USMISSION USNATO

C O N F I D E N T I A L SECTION 01 OF 03 BONN 06773

E.O. 11652: GDS
TAGS: PGOV, BQG
SUBJECT: REPLY TO SOVIET DEMARCHES ON FRG
ACTIVITIES IN BERLIN

REFS: (A) STATE 064471
(B) BONN 4236
(C) 77 BONN 21148
(D) 77 BONN 19462

SUMMARY: AT THE APRIL 11 BONN GROUP MEETING, NEW AD REF
AGREEMENT WAS REACHED ON A REPLY TO THE SOVIET DEMARCHES
DELIVERED IN BERLIN ON NOVEMBER 29, 1977 AND JANUARY 11
AND 18, 1978. ACTION REQUESTED: APPROVAL OF NEW AD
REF TEXT. END SUMMARY

1. AD REF AGREEMENT WAS REACHED BY THE BONN GROUP ON
APRIL 11 ON THE FOLLOWING TEXT, IN SUBSTITUTION OF THE
PRIOR AD REF TEXT (REF B):
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BEGIN TEXT

DRAFT REPLY TO SOVIET STATEMENTS OF 29 NOVEMBER 1977
AND 11 AND 18 JANUARY 1978

1. ON 29 NOVEMBER YOU MADE A STATEMENT TO THE THEN

CHAIRMAN POLITICAL ADVISER IN WHICH YOU SPOKE OF VARIOUS EVENTS WHICH HAD TAKEN PLACE IN THE WESTERN SECTORS OF BERLIN WHICH YOU DESCRIBED AS ATTEMPTS AT ALTERING THE SPECIAL STATUS OF THE WESTERN SECTORS OF BERLIN. ON 11 AND 18 JANUARY 1978 YOU MADE SIMILAR COMPLAINTS ABOUT OTHER EVENTS IN BERLIN.

2. I AM INSTRUCTED FIRSTLY TO REMIND YOU THAT THE THREE ALLIED POWERS HAVE RECENTLY POINTED OUT (IN THEIR REPLIES TO YOUR DEMARCHE OF 28 OCTOBER 1977 ABOUT MEETINGS IN BERLIN OF THE EUROPEAN PARLIAMENTARY ASSEMBLY) THAT THE WESTERN SECTORS OF BERLIN DO NOT HAVE THE "SPECIAL STATUS" ATTRIBUTED TO THEM IN YOUR STATEMENT OF 29 NOVEMBER. I NEED ONLY REAFFIRM THAT POSITION.

3. SECONDLY, YOU SUGGESTED ON 29 NOVEMBER THAT THE EXTENSION OF FEDERAL LEGISLATION TO BERLIN WAS "ILLEGAL" BECAUSE SUCH LEGISLATION REFERRED TO "LAND BERLIN". AS YOU ARE AWARE, THE LETTER OF 3 SEPTEMBER 1971 FROM THE THREE AMBASSADORS TO THE CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY, OF WHICH THE SOVIET AMBASSADOR TOOK NOTE, CONFIRMED THAT "THE ESTABLISHED PROCEDURES CONCERNING THE APPLICABILITY TO THE WESTERN SECTORS OF BERLIN OF LEGISLATION OF THE FEDERAL REPUBLIC OF GERMANY SHALL REMAIN UNCHANGED". THE USE OF THE TERM LAND
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BERLIN, DERIVING AS IT DOES FROM THE CONSTITUTION ADOPTED BY THE BERLIN DEPUTIES IN 1949 (AS MODIFIED BY THE RESERVATIONS OF THE ALLIED KOMMANDATURA EXPRESSED IN BK/O(50)75) DOES NOT IMPLY THAT BERLIN IS A LAND OF THE FEDERAL REPUBLIC OF GERMANY.

4. THIRDLY, YOU REFERRED TO QUOTE INADMISSIBLE DECLARATIONS
END QUOTE
BY OFFICIALS OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY. THE THREE POWERS RECALL THE STATEMENT OF THE CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY MADE IN BERLIN ON 3 OCTOBER 1977. THEY RECALL ALSO THE COMPREHENSIVE OFFICIAL CLARIFICATION OF THE ATTITUDE OF THE FEDERAL GOVERNMENT CONTAINED IN THE REPLY MADE BY MINISTER OF STATE VON DOHNANYI ON 25 NOVEMBER 1977 IN RESPONSE TO A QUESTION PUT BY A MEMBER OF THE BUNDESTAG.

5. FOURTHLY, REGARDING THE EVENTS IN BERLIN OF WHICH YOU HAVE COMPLAINED, I AM INSTRUCTED TO DRAW YOUR ATTENTION TO THE FACT THAT NONE OF THE ACTIVITIES WHICH YOU MENTIONED FALLS WITHIN THE SCOPE OF PARAGRAPH 2 OF ANNEX II OF THE QUADRIPARTITE AGREEMENT, AS

CLARIFIED IN PARAGRAPHS A) AND B) OF THE LETTER OF

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INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11
IO-13 ACDA-12 TRSE-00 /091 W
-----121963 131433Z /14

R 131331Z APR 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC 7622
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION USBERLIN
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C O N F I D E N T I A L SECTION 02 OF 03 BONN 06773

3 SEPTEMBER 1971 FROM THE THREE AMBASSADORS TO THE
FEDERAL CHANCELLOR REFERRED TO ABOVE; NOR HAVE ANY
ACTIONS OF THE GOVERNMENT OF THE FRG BEEN CARRIED OUT IN
EXERCISE OF DIRECT STATE AUTHORITY OVER THE WSB.
PARLIAMENTS AND GOVERNMENTS OF THE LAENDER OF THE FRG
AND FRAKTIONEN OF THOSE PARLIAMENTS ARE NOT STATE
BODIES OF THE FEDERAL REPUBLIC OF GERMANY. THEY DO NOT
FALL WITHIN THE TERMS OF PARAGRAPH (E) OF THE LETTER
OF 3 SEPTEMBER 1971 REFERRED TO ABOVE. IT GOES MOREOVER
WITHOUT SAYING THAT SUCH GROUPS ARE NOT LEGALLY COMPETENT
TO EXERCISE ANY AUTHORITY OVER BERLIN. NONE OF THESE
ACTIVITIES TO WHICH YOU HAVE REFERRED OFFENDS AGAINST
ANY SPECIFIC OR GENERAL PROVISION OF THE QUADRIPARTITE
AGREEMENT.

6. FIFTHLY, THE VIEWS OF THE THREE POWERS CONCERNING THE PRO-
PRIETY OF THE PARTICIPATION OF BERLIN OFFICIALS IN
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MEETINGS WITH THEIR COUNTERPARTS FROM THE LAENDER OF THE FRG, AND OF HOLDING SUCH MEETINGS ON OCCASION IN THE WSB, WERE EXPRESSED IN THE REPLY TO THE SOVIET STATEMENT OF OCTOBER 12, 1977 REGARDING THE MEETING OF LAENDER MINISTER PRESIDENTS IN THE WESTERN SECTORS OF BERLIN.

7. SIXTHLY, WITH REGARD TO YOUR STATEMENT OF 18 JANUARY CONCERNING THE MEETING IN BERLIN OF THE CDU/CSU FRAKTION OF THE BUNDESTAG, THE THREE ALLIED AUTHORITIES ARE UNABLE TO ACCEPT YOUR CONTENTION THAT BUNDESTAG FRAKTIONEN SHOULD MEET IN THE WSB ONLY TO DISCUSS MATTERS PERTAINING TO THOSE SECTORS. IN THIS CONNECTION I WOULD REFER YOU TO THE RELEVANT DISTINCTION BETWEEN COMMITTEES AND FRAKTIONEN OF THE BUNDESRAT AND BUNDESTAG WHICH IS CONTAINED IN PARAGRAPH (B) OF THE LETTER OF THE THREE AMBASSADORS TO THE FEDERAL CHANCELLOR OF 3 SEPTEMBER 1971 REFERRED TO ABOVE.

8. YOUR RECENT COMPLAINTS APPEAR TO IMPLY THAT YOU CONSIDER THAT THE ACTIVITIES WHICH YOU MENTIONED, BECAUSE THEY ARE NOT SPECIFICALLY PROVIDED FOR IN THE QA, ARE PRECLUDED FROM TAKING PLACE. I AM INSTRUCTED TO SAY THAT THE THREE POWERS REJECT THAT CONTENTION. THEY ENSURE THE SCRUPULOUS OBSERVANCE OF ALL THE PROVISIONS OF THE QA RELATING TO THE ACTIVITIES OF THE FRG IN THE WSB. THE ACTIVITIES TO WHICH YOU HAVE REFERRED IN THESE RECENT STATEMENTS ARE ASPECTS OF THE TIES BETWEEN THE WESTERN SECTORS OF BERLIN AND THE FRG WHICH, IN FULL ACCORDANCE WITH THE QUADRI-PARTITE AGREEMENT, HAVE BEEN AUTHORIZED BY THE THREE POWERS IN THE EXERCISE OF THEIR SUPREME AUTHORITY IN THE WESTERN SECTORS OF BERLIN.

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9. THERE IS ACCORDINGLY NO JUSTIFICATION WHATEVER FOR THE ACCUSATIONS CONTAINED IN YOUR STATEMENT OF NOVEMBER 29, 1977. AS IN THE PAST, THE THREE POWERS, FOR THEIR PART, WILL CONTINUE TO MEET THEIR RIGHTS AND RESPONSIBILITIES IN BERLIN IN FULL ACCORDANCE WITH THE PROVISIONS OF THE QUADRI-PARTITE AGREEMENT.

END TEXT

2. THE SPECIFIC CHANGES FROM THE PRIOR TEXT ARE AS FOLLOWS:

A) IN PARAGRAPH 2, SUBSTITUTE FOR "A 'SPECIAL STATUS' " THE WORDS "THE 'SPECIAL STATUS' ATTRIBUTED TO THEM IN YOUR STATEMENT OF 29 NOVEMBER." (COMMENT: FCO SUGGESTION, REFLECTING MR. HIBBERT'S WELL-KNOWN VIEWS ON THE SUBJECT. END COMMENT.)

B) IN PARAGRAPH 3, PUT IN QUOTES THE WORDS "...THE ESTABLISHED PROCEDURES CONCERNING THE APPLICABILITY TO THE WESTERN SECTORS OF BERLIN OF LEGISLATION OF THE FEDERAL REPUBLIC OF GERMANY SHALL REMAIN UNCHANGED." BEGIN THE LAST SENTENCE "THE USE OF THE TERM LAND BERLIN." (COMMENT: AN FCO SUGGESTION, TO SHOW THE FIRST PHRASE IS TAKEN LITERALLY FROM THE SEPTEMBER 3 LETTER. THE SECOND PHRASE IS AN FCO STYLISTIC CHANGE. END COMMENT.)

C) IN PARAGRAPH 4, REPLACE THE SECOND AND THIRD SENTENCES BY THE FOLLOWING: "THE THREE POWERS RECALL

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IO-13 ACDA-12 TRSE-00 /091 W
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R 131331Z APR 78
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AMEMBASSY PARIS
USMISSION USBERLIN
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C O N F I D E N T I A L SECTION 03 OF 03 BONN 06773

THE STATEMENT OF THE CHANCELLOR OF THE FRG MADE IN BERLIN ON 3 OCTOBER, 1977. THEY RECALL THE COMPREHENSIVE OFFICIAL CLARIFICATION OF THE ATTITUDE OF THE FEDERAL

GOVERNMENT CONTAINED IN THE REPLY MADE BY MINISTER OF STATE VON DOHNANYI ON 25 NOVEMBER, 1977 IN RESPONSE TO A QUESTION PUT BY A MEMBER OF THE BUNDESTAG." (COMMENT: THE FCO SUGGESTED DELETING ALL REFERENCES TO THE FRG STATEMENTS AND REFERRING ONLY TO THE ALLIED REPLY TO THE SOVIETS ON THE BAUM PROTEST (REFS C AND D). THE FCO, FOR REASONS WHICH ARE NOT FULLY CLEAR, DID NOT WANT TO SEE NEW LANGUAGE DRAFTED WHICH REFLECTED THE FRG ATTITUDE, EVEN THOUGH THIS LANGUAGE WAS BASED ON LANGUAGE IN THE ORIGINAL FRG DRAFT OF THE PROPOSED REPLY. AFTER SOME DISCUSSION, UK REP EYERS AGREED TO RECOMMEND TO LONDON THE FOREGOING AD REF LANGUAGE WHICH IS TAKEN FROM THE REPLY TO THE SOVIETS ON THE BAUM PROTEST (REFS C AND D). THE REDRAFTED LANGUAGE, CONFIDENTIAL

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IF ACCEPTED, MAKES MOOT A QUAI SUGGESTION FOR REPLACING THE WORDS "WHICH ARE ALSO REFLECTED" IN THE LAST SENTENCE OF THE PARAGRAPH BY THE WORDS "WHICH WERE REAFFIRMED." END COMMENT.)

E) IN PARAGRAPH 5, SUBSTITUTE "FALLS WITHIN THE SCOPE OF" FOR "IS GOVERNED BY." (COMMENT: THE FCO SUGGESTED THIS CHANGE, SINCE, IN THE FCO VIEW, EVERYTHING CONCERNING BERLIN IS "GOVERNED" BY THE QA. END COMMENT.)

F) IN PARAGRAPH 5, DROP THE BRACKETED LANGUAGE. (COMMENT: ALL THREE ALLIED CAPITALS REQUESTED THIS CHANGE. FRG REP (VON BRAUNMUEHL) DID NOT OPPOSE THE CHANGE BUT ASKED US TO TAKE NOTE OF THE FRG REGRETS. END COMMENT.)

G) IN PARAGRAPH 8, INSERT A NEW THIRD SENTENCE AS FOLLOWS: "THEY ENSURE THE SCRUPULOUS OBSERVANCE OF ALL THE PROVISIONS OF THE QA RELATING TO THE ACTIVITIES OF THE FRG IN THE WESTERN SECTORS OF BERLIN." DELETE "RATHER" IN THE LAST SENTENCE. REORDER THAT SENTENCE. (COMMENT: THE NEW THIRD SENTENCE WAS A COMBINED UK/FRENCH SUGGESTION IN SUBSTITUTION FOR THE FOLLOWING, WHICH THE FRG HAD SUGGESTED AFTER THE PREVIOUS AD REF AGREEMENT WAS REACHED: "ALL PROVISIONS OF THE QA WHICH SPECIFICALLY RESTRICT ACTIVITIES OF THE FRG IN THE WESTERN SECTORS OF BERLIN ARE SCRUPULOUSLY OBSERVED." VON BRAUNMUEHL COMMENTED ON APRIL 11 THAT THE FRG'S PURPOSE IN SUGGESTING THIS CHANGE WAS ANOTHER WAY OF SAYING THAT THAT WHICH IS NOT PROHIBITED IS PERMITTED. THE CHANGES IN THE LAST SENTENCE ARE STYLISTIC. END CONFIDENTIAL

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COMMENT.)

H) IN PARAGRAPH 9, A TEXT ALONG THE LINES OF THE
DEPARTMENT'S RECOMMENDED TEXT (REF A) WAS ACCEPTED.

3. ACTION REQUESTED: APPROVAL OF NEW AD REF TEXT.
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Message Attributes

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Capture Date: 01 jan 1994
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Draft Date: 13 apr 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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SAS ID: 2985536
Secure: OPEN
Status: NATIVE
Subject: REPLY TO SOVIET DEMARCHES ON FRG ACTIVITIES IN BERLIN
TAGS: PGOV, GC, WB, BQG
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/42fd39b1-c288-dd11-92da-001cc4696bcc
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